

EXHIBIT B

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FILED
 SUPERIOR COURT
 COUNTY OF SAN BERNARDINO
 SAN BERNARDINO DISTRICT

III 27 2015

By Sandra Ortega
 Deputy

SANDRA ORTEGA

8/28/15
 12:12

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SAN BERNARDINO
 LIMITED JURISDICTION**

GABRIELA BRILEY,

Plaintiff,

vs.

SANTANDER CONSUMER USA, INC.,

Defendant.

Case No.

(Amount not to exceed \$10,000)

1. Violation of Rosenthal Fair Debt Collection Practices Act
2. Violation of Telephone Consumer Protection Act

CIVDS 1510605

BY FAX

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for Defendant's violations of the Telephone Consumer Protection Act., 47 U.S.C. §227, *et seq.* (hereinafter "TCPA").

II. PARTIES

2. Plaintiff, Gabriela Briley ("Plaintiff"), is a natural person residing in San Bernardino County in the state of California and is a "debtor" as defined by Cal Civ Code §1788.2(h).

3. At all relevant times herein, Defendant, Santander Consumer USA, Inc. ("Defendant"), was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due them, and therefore is a "debt collector" as defined by the RFDCPA, Cal Civ Code §1788.2(c). Further, Defendant uses an "automatic telephone dialing system" as defined by the TCPA, 47 U.S.C. §227.

III. FACTUAL ALLEGATIONS

4. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted PLAINTIFF in an attempt to collect an alleged outstanding debt.

5. In and around the beginning of 2015, Defendant began contacting Plaintiff concerning an alleged debt owed.

6. Defendant excessively called Plaintiff on her cellular telephone number ending in -9908.

7. Defendant placed a barrage of calls to Plaintiff, with enough regularity and frequency to constitute harassment under the circumstances.

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1 8. Defendant used an "automatic telephone dialing system," as defined by 47
2 U.S.C. § 227(a)(1), to place its repeated collection calls to Plaintiffs seeking to collect the debt
3 allegedly owed.

4 9. Prior to being contacted via an "automatic telephone dialing system," Plaintiff
5 had revoked any and all consent to be contacted via an "automatic telephone dialing system."
6

7 10. Defendant's calls constituted calls that were not for emergency purposes as
8 defined by 47 U.S.C. § 227(b)(1)(A).

9 11. Defendant's calls were placed to telephone number assigned to a cellular
10 telephone service for which Plaintiffs incur a charge for incoming calls pursuant to 47 U.S.C.
11 §227(b)(1).

12 12. §1788.17 of the RFDCPA mandates that every debt collector collecting or
13 attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to
14 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the
15 United States Code statutory regulations contained within the FDCPA, 15 U.S.C. §1692d, and
16 §1692d(5).
17

18 13. Defendant's conduct violated the RFDCPA in multiple ways, including but not
19 limited to:

- 20 a) Causing Plaintiff's telephone to ring repeatedly or continuously
21 with intent to harass, annoy or abuse Plaintiff (§1692d(5));
- 22 b) Communicating with Plaintiff at times or places which were
23 known or should have been known to be inconvenient for
24 Plaintiff (§ 1692c(a)(1));
- 25 c) Causing a telephone to ring repeatedly or continuously to annoy
26 Plaintiff (Cal Civ Code §1788.11(d));
- 27 d) Communicating, by telephone or in person, with Plaintiff with
28 such frequency as to be unreasonable and to constitute an
harassment to Plaintiff under the circumstances (Cal Civ Code
§1788.11(e)); and

- 1 e) Engaging in conduct the natural consequence of which is to
2 harass, oppress, or abuse Plaintiff (§1692d)).

3 14. Defendant's conduct violated the TCPA by:

- 4 a) using any automatic telephone dialing system or an artificial
5 or pre-recorded voice to any telephone number assigned to a
6 paging service, cellular telephone service, specialized mobile
7 radio service, or other radio common carrier service, or any
8 service for which the called party is charged for the call (47
9 USC §227(b)(A)(iii)).

9 15. As a result of the above violations of the RFDCPA and TCPA, Plaintiff suffered
10 and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment,
11 mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual
12 damages, statutory damages, and costs and attorney's fees.

13
14 **COUNT I: VIOLATION OF ROSENTHAL**
15 **FAIR DEBT COLLECTION PRACTICES ACT**

16 16. Plaintiff reincorporates by reference all of the preceding paragraphs.

17 17. To the extent that Defendant's actions, counted above, violated the RFDCPA,
18 those actions were done knowingly and willfully.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant
21 for the following:
22

- 23 A. Actual damages;
24 B. Statutory damages for willful and negligent violations;
25 C. Costs and reasonable attorney's fees;
26 D. For such other and further relief as may be just and
27 proper.
28

**COUNT II: VIOLATION OF TELEPHONE
CONSUMER PROTECTION ACT**

18. Plaintiff incorporates by reference all of the preceding paragraphs.

19. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

20. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiff is entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

21. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

22. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

23. Plaintiff is entitled to and seeks injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

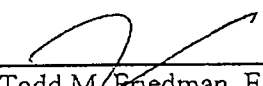
- A. As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff is entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff is entitled to and requests treble damages,

1 as provided by statute, up to \$1,500, for each and every violation,
2 pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C) and
3 C. Any and all other relief that the Court deems just and proper.

4 PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

5 Respectfully submitted this 27th day of July, 2015.

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7 By:


Todd M. Friedman, Esq.

8 Law Offices of Todd M. Friedman, P.C.
9 Attorney for Plaintiff
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